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FILED

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <u>North Dist. of Ohio</u>	
Name (under which you were convicted): <u>Antun Lewis</u>		Docket or Case No.: <u>1:08-cr-00404-SO-1</u>	
Place of Confinement: <u>United States Penitentiary - Big Sandy</u>		Prisoner No.: <u>31980 - 160</u>	
Petitioner (include the name under which you were convicted) <u>Antun Lewis</u>		Respondent (authorized person having custody of petitioner) <u>United States of America</u>	
The Attorney General of the State of:			

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging:
Carl B. Stokes U.S. Court House, 801 Superior Ave, United States Fed Court, Cleveland, OH 44113
 - (b) Criminal docket or case number (if you know): 1:08-cr-00404-SO-1
- (a) Date of the judgment of conviction (if you know): Dec. 16th 2013
 - (b) Date of sentencing: June 10th 2014
- Length of sentence: 420 months
- In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
- Identify all crimes of which you were convicted and sentenced in this case: Count (1) 18: 844 (i) ARSON A CLASS A FELONY
- (a) What was your plea? (Check one)

<input checked="" type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? N/A

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court:

United States Courts of Appeals

for the Sixth Circuit

(b) Docket or case number (if you know):

14-3661

(c) Result:

Affirmed

(d) Date of result (if you know):

Aug. 24 2016

(e) Citation to the case (if you know):

600 Fed. Appx. 396, 2016 U.S. App. LEXIS 15856

(f) Grounds raised:

I: Whether the District Court Abused its Discretion in Denying a New Trial. II: Whether Lewis's Conviction must be Reversed for Prosecutorial Misconduct As a Result of the Government's Improper Remarks During Closing Argument. III: Require Lewis's Conviction to be Vacated.

(g) Did you seek further review by a higher state court?

☐ Yes ☒ No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☒ Yes☐ No

If yes, answer the following:

(1) Docket or case number (if you know):

16-6983

(2) Result:

Affirmed

(3) Date of result (if you know):

Jan. 9th 2017

(4) Citation to the case (if you know):

146 L. Ed. 2d 572, 2017 U.S. LEXIS 490

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

☒ Yes☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a)

(1) Name of court:

Carl B. Stokes U.S. Fed Courthouse

(2) Docket or case number (if you know):

1:08-cr-00404-50-1

(3) Date of filing (if you know):

March 31st 2011

(4) Nature of the proceeding:

Motion for New Trial Rule 33

(5) Grounds raised:

Verdict was against the
manifest weight of the evidence

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result:

Granted

(8) Date of result (if you know):

Feb 8th 2012

ADDENDUM TO PAGE 4 NUMBER 1

If you filed fourth petition, application or motion, give the same information

- ① Name of Court: Carl B. Stokes U.S. Fed Courthouse
- ② Docket of Case number: 1:08-cr-00404-SO-1
- ③ Date of Filing: Feb 6th 2014
- ④ Nature of the proceeding: Motion for Acquittal Rule 29
- ⑤ Grounds raised: Arguing that the volume of publicity surrounding this crime and the tragic nature of the crime itself was so prejudicial that he did receive a fair trial.
- ⑥ Did you receive a hearing where evidence was given on your petition, application, or motion?
☐ yes ☒ no
- ⑦ Result: Denied
- ⑧ Date of Result: June 5th 2014

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: Carl B. Stokes U.S. Fed Courthouse
 (2) Docket or case number (if you know): 1:08-cr-00404-50-1
 (3) Date of filing (if you know): June 10th 2011
 (4) Nature of the proceeding: Motion for New Trial Rule 33
 (5) Grounds raised: Newly Discovered Evidence

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes ☐ No(7) Result: Dismissed as Moot(8) Date of result (if you know): Feb. 8th 2012

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court: Carl B. Stokes U.S. Fed Courthouse
 (2) Docket or case number (if you know): 1:08-cr-00404-50-1
 (3) Date of filing (if you know): Feb. 6th 2014
 (4) Nature of the proceeding: Motion for New Trial Rule 33
 (5) Grounds raised: Contending that this Court should grant Lewis a new trial in the interest of Justice because the verdict is against the manifest weight of the evidence.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: Denied

(8) Date of result (if you know): June 5th 2014

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

my Counsel's indicated to me it's was not good to raise these same issues.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel's was ineffective because they failed to file for a change of Venue during my Second Trial.

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

My counsel's would not raise this issue in my Direct Appeal.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO:INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel's was ineffective for failure to file a motion of Acquittal during or after my first Trial.

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

my Counsel's thought it was for my best interest Not to raise this issue

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : _____

GROUND THREE:

INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel's was ineffective for failure to raise the issue of Court Jurisdiction with the district court during my first or second Trial.

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: my counsel's didn't
raise this issue when I asked him to. He
assured me he knew what to raise.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (c) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) If you did not exhaust your state remedies on Ground Four, explain why:

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

n/a

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

United States Court of Appeals For the Sixth Circuit, Case # 14-3661, Direct Appeal, 1st Issue: Whether the District Court Abused its Discretion in Denying a New Trial. 2nd Issue: Whether Lewis's Conviction Must be Reversed for Prosecutorial Misconduct As a Result of the Government's Improper Remarks During Argument. 3rd Issue: Require Lewis's Conviction to be Vacated

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Angulo F. Lonardo, Timothy C. Ivey
Wesley A. Dumas

(b) At arraignment and plea: Angulo F. Lonardo, Jeffrey B. Lazarus,
Timothy C. Ivey and Wesley A. Dumas

(c) At trial: Angulo F. Lonardo, Jeffrey B. Lazarus,
Timothy C. Ivey and Wesley A. Dumas

(d) At sentencing: Angulo F. Lonardo, Jeffrey B. Lazarus
Timothy C. Ivey and Wesley A. Dumas

(e) On appeal: Angulo F. Lonardo, Jeffrey B. Lazarus,
Timothy C. Ivey and Wesley A. Dumas

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

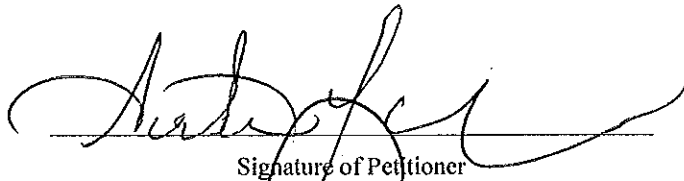
New Trial or
Sentence Vacated because of the lack
of evidence

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 1/8/18 (month, date, year).

Executed (signed) on 1/8/18 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

